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LEGALMEMORANDUM
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TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

AZ CORP COMMISSION
DOCUMENT CONTROLAZ CORP COMMISSION
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DATE: September 15, 2004

RE: NEW RIVER UTILITY COMPANY - APPLICATION AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND NECESSITY ("CC&N") TO PROVIDE
WATER SERVICE IN MARICOPA COUNTY, ARIZONA (DOCKET NO.
W-01737A-04-0502)

Attached is the Staff Report for the above referenced application. Staff is recommending approval of the application.

EGJ:JEF:lhbm

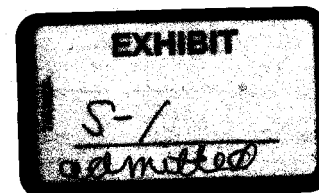
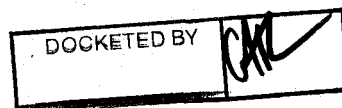
Originator: Jim Fisher

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SEP 15 2004

LEGAL DIV.
ARIZ. CORPORATION COMMISSIONArizona Corporation Commission
DOCKETED

OCT 21 2004



Service List for: New River Utility Company
Docket No. W-01737A-04-0502

Mr. Robert Fletcher
President
New River Utility Company
7839 West Deer Valley Road
Phoenix, Arizona 85382

Mr. Jay Shapiro
Fennemore Craig
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

NEW RIVER UTILITY COMPANY

DOCKET NO. W-01737A-04-0502

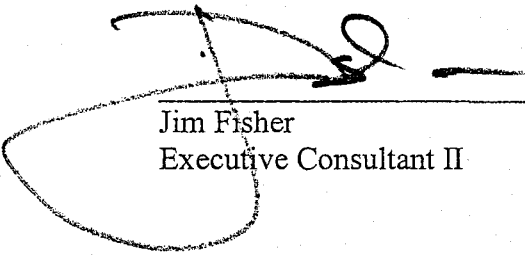
APPLICATION FOR AN EXTENSION OF
ITS CERTIFICATE OF CONVENIENCE AND NECESSITY
TO PROVIDE WATER SERVICE
IN MARICOPA COUNTY, ARIZONA

SEPTEMBER 2004

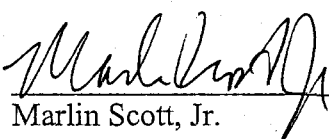
STAFF ACKNOWLEDGEMENT

The Staff Report for New River Utility Company (Docket No. W-01737A-04-0502) was the responsibility of the Staff members listed below. Jim Fisher was responsible for the review and analysis of the Company's application. Marlin Scott, Jr., was responsible for the engineering and technical analysis.

Contributing Staff:



Jim Fisher
Executive Consultant II



Marlin Scott, Jr.
Utilities Engineer

**EXECUTIVE SUMMARY
NEW RIVER UTILITY COMPANY
DOCKET NO. W-01737A-04-0502**

On July 9, 2004, New River Utility Company ("New River" or "Company"), a certificated Arizona public service corporation, filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval for an extension of its existing Certificate of Convenience and Necessity ("CC&N") to include additional property in Maricopa County, Arizona. New River is an Arizona subchapter S corporation, authorized by the ACC to provide water service within a portion Maricopa County, Arizona.

By this application, New River is seeking to add approximately 53 acres to its existing two square miles of certificated area. The property requested is two separate, but adjacent parcels, Cody Farms and Riverstone Estates. Riverstone Estates is approximately 33 acres proposed to become 101 residential homes by Columbia Property Development, LLC. Cody Farms consists of 20 acres proposed to become 66 residential homes.

New River has four production wells with a total production capacity of 2,825 gallons-per-minute ("GPM"). The system also retains 3,000,000 gallons of storage capacity, booster pumps, pressure tanks, and a distribution system serving 2,575 connections.

Based on the existing well production and storage capabilities, the system can serve approximately 3,100 connections. Therefore, Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N area within a conventional five year planning period.

Staff recommends that the Commission approve the New River Utility Company's application for an extension of its Certificate of Convenience and Necessity in a portion of Maricopa County to provide water service, subject to compliance with the following conditions:

1. To require the New River Utility Company to charge its existing rates and charges in the proposed extension area.
2. To require New River Utility Company to file with Docket Control as a compliance item in this docket the main extension agreement associated with the proposed extension areas within 365 days of the effective date of any decision in this matter.
3. To require New River Utility Company to file with Docket Control a copy of the ADEQ Certificate of Approval to Construct within 365 days of any decision in this matter.
4. To require New River Utility Company to file with Docket Control a copy of the developers' Certificate of Assured Water Supply, where applicable or when required by statute.

Staff further recommends that the Commission's Decision granting this Extension of its Certificate of Convenience and Necessity to the New River Utility Company be considered null and void without further order from the Commission should New River Utility Company fail to meet Condition Nos. 2 and 3 within the time specified.

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Introduction

On July 9, 2004, New River Utility Company ("New River" or "Company"), a certificated Arizona public service corporation, filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval for an extension of its existing Certificate of Convenience and Necessity ("CC&N") to include additional property in Maricopa County, Arizona.

On August 9, 2004, Utilities Division Staff ("Staff") informed the Company the application was sufficient for administrative purposes.

Background

New River is an Arizona subchapter S corporation, authorized by the ACC to provide water service within a portion of Maricopa County, Arizona. The ACC initially authorized New River a CC&N in 1961.

New River Utility is located on the southeast corner of 78th Avenue and Deer Valley Road in the City of Peoria in Maricopa County.

New River's current authorized rates became effective in Decision No. 65134 (August 22, 2002). According to its last Annual Report to the Commission, the Company currently serves approximately 2,548 customers, producing revenue of \$1,220,733 and income \$138,660. New River reports property tax payments of \$27,830.

The Extension Request

By this application, New River is seeking to add approximately 53 acres to its existing two square miles of certificated area. The property requested is two separate, but adjacent parcels, Cody Farms and Riverstone Estates.

Riverstone Estates is approximately 33 acres proposed to become 101 residential homes by Columbia Property Development, LLC. Cody Farms consists of 20 acres proposed to become 66 residential homes.

The requested property is adjoining the existing New River CC&N on its western side. The property is generally located in the southwestern quarter of the northeast quarter of Section 23, Range 1 East of Township 4 North.

On April 6, 2004, New River and the City of Peoria entered into a Utility Services Operating Agreement to allow the utility to operate in the streets of the city prior to obtaining a franchise that includes the proposed extension area.

Finance of Facilities

On July 7, 2004, New River and Cody Farms, Inc. signed a main extension agreement. On July 9, 2004, New River and Columbia Property Development also signed a main extension agreement. New River will finance the required transmission and distribution facilities primarily with Advances in Aid of Construction. Advances in aid of construction are often in the form of Main Extension Agreements. Main Extension Agreements generally require the developer to design, construct and install (or cause to be) all facilities to provide adequate service to the development. The developer is required to pay all costs of constructing the required facilities necessary to serve the development. Upon acceptance of the facilities by the utility the developer will convey the water facilities by way of a warranty deed. The utility will often refund ten (10) percent of the annual water revenue associated with development for a period of ten (10) years.

Water Production Capacity

New River has four production wells with a total production capacity of 2,825 gallons-per-minute ("GPM"). The system also retains 3,000,000 gallons of storage capacity, booster pumps, pressure tanks, and a distribution system serving 2,575 connections.

Based on the existing well production and storage capabilities, the system can serve approximately 3,100 connections. Therefore, Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N area within a conventional five year planning period and can reasonably be expected to develop additional storage and production as required in the future.

Maricopa County Environmental Services ("MCES") Compliance

MCES regulates the water system under ADEQ Public Water System I.D. # 07-051. Based on data submitted by the Company, MCES has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Arsenic

The U. S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter (" $\mu\text{g/l}$ ") to 10 $\mu\text{g/l}$. The date for compliance with the new MCL is January 23, 2006. The most recent lab analysis by the Company indicated that the arsenic level in its source supplies are Well No. 1 at 5 $\mu\text{g/l}$, Well No. 2 at 8 $\mu\text{g/l}$, Well No. 4 at 14 $\mu\text{g/l}$ and Well No. 6 at 16 $\mu\text{g/l}$.

Based on this arsenic level, the Company will be required to implement a plan to address this issue. This could mean installing treatment facilities, locating a better source of water or blending sources of water to achieve 10 $\mu\text{g/l}$ or less.

In Decision No. 67164 (August 10, 2004), the Commission required the Company to file a report with the Commission's Utilities Division describing what steps the Company is planning to take in order to reduce the level in their water to a concentration to below 10 µg/l., within three months from the effective date the decision.

Arizona Department of Water Resources ("ADWR") Compliance

New River is within the Phoenix Active Management Area ("AMA"), and consequently is subject to reporting and conservation rules (GPCD requirements) of ADWR. The Phoenix AMA reported that New River Utility is in total compliance with the ADWR reporting and conservation rules.

Staff recommends that the Company be required to file copies of the developers' Certificate of Assured Water Supply where applicable or required by statute.

Curtailment Plan Tariff

Decision No. 65134 required the Company to file a Curtailment Plan Tariff within 90 days of the effective date of the decision. According to the Utilities Division's Compliance Section, the Company complied in a timely manner.

ACC Compliance

A check with the Utilities Division's Compliance Section showed no outstanding compliance issues for the Company.

Proposed Rates

New River has proposed to extend service to the property at its authorized rates.

Recommendations

Staff recommends that the Commission approve the New River Utility Company's application for an extension of its Certificate of Convenience and Necessity in a portion of Maricopa County to provide water service, subject to compliance with the following conditions:

1. To require the New River Utility Company to charge its existing rates and charges in the proposed extension area.
2. To require New River Utility Company to file with Docket Control as a compliance item in this docket the main extension agreement associated with the proposed extension areas within 365 days of the effective date of any decision in this matter.

3. To require New River Utility Company to file with Docket Control a copy of the ADEQ Certificate of Approval to Construct within 365 days of any decision in this matter.
4. To require New River Utility Company to file with Docket Control a copy of the developers' Certificate of Assured Water Supply, where applicable or when required by statute.

Staff further recommends that the Commission's Decision granting this Extension of its Certificate of Convenience and Necessity to the New River Utility Company be considered null and void without further order from the Commission should New River Utility Company fail to meet Condition Nos. 2 and 3 within the time specified.

MEMORANDUM

TO: Jim Fisher
Executive Consultant II
Utilities Division

FROM: Barb Wells *bw*
Information Technology Specialist
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: July 29, 2004

RE: **NEW RIVER UTILITY COMPANY (DOCKET NO. W-01737A-04-0502)**

The area requested by New River for an extension has been plotted with no complications using the legal description provided with the application (a copy of which is attached).

Also attached is a copy of the map for your files.

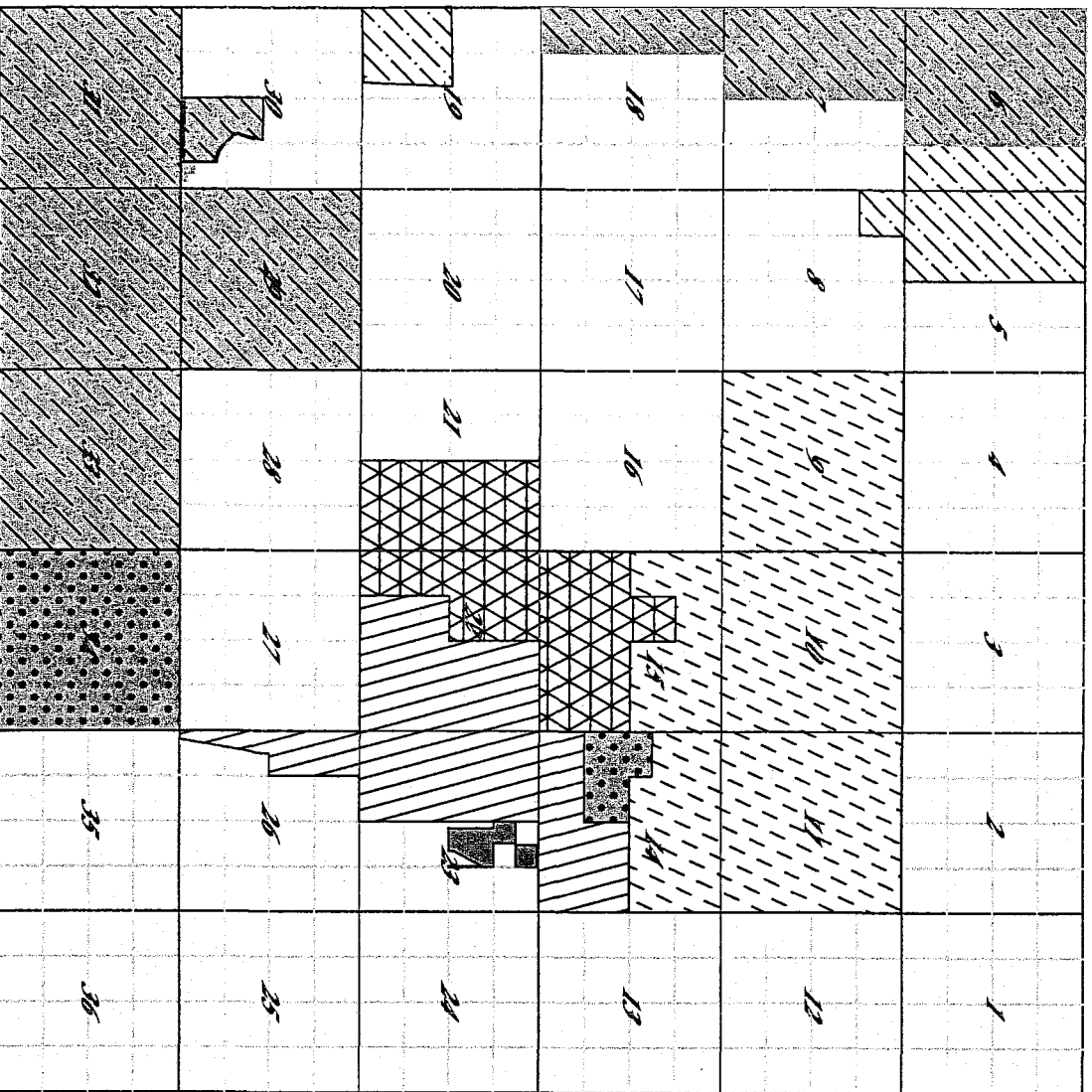
:bsw

Attachments




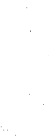


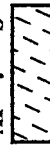







cc: Docket Control
Mr. Jay Shapiro
Ms. Deb Person (Hand Carried)
File

COUNTY OF Maricopa

RANGE 1 East



TOWNSHIP 4 North

-  WS-1303 (14)
-  Sewer
-  Arizona-American Water Company
-  W-1737 (1)
-  New River Utility Company
-  W-1539 (1)
-  Rose Valley Water Company
-  W-2069 (1)
-  Sunrise Water Company, Inc.
-  C-0008 (3)
-  City of Peoria (Nonjurisdictional)
-  Sewer
-  New River Utility Company Docket No. W-1737-04-274 Application for Extension
-  New River Utility Company Docket No. W-1737-04-502 Application for Extension

Legal Description Cody Farms

**FIRST AMENDED
NO. 265-940-1235330**

**The West half of the Southwest quarter of the Northwest quarter of the Northeast quarter of
Section 23, Township 4 North, Range 1 East of the Gila and Salt River Base and Meridian,
Maricopa County, Arizona**

Legal Description of Columbia Parcel

PARCEL NO. 4:

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXCEPT THE EAST 25.00 FEET THEREOF; AND

EXCEPT ALL COAL, OIL, GAS AND OTHER MINERAL DEPOSITS AS RESERVED IN PATENT FROM THE UNITED STATES OF AMERICA RECORDED APRIL 22, 1959 IN DOCKET 2835, PAGE 562.

PARCEL NO. 12:

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 4 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 12 MINUTES 46 SECONDS EAST (Record), SOUTH 00 DEGREES 09 MINUTES 34 SECONDS WEST (Record per plat recorded at Book 447, Page 31) ALONG THE MID-SECTION LINE, A DISTANCE OF 1318.75 FEET (Record), 1319.00 (Record per plat recorded Book 447, Page 31); THENCE NORTH 89 DEGREES 24 MINUTES 42 SECONDS EAST (Record), NORTH 89 DEGREES 45 MINUTES 16 SECONDS EAST (Measured) A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 24 MINUTES 41 SECONDS EAST (Record), NORTH 89 DEGREES 45 MINUTES 16 SECONDS EAST (Measured) A DISTANCE OF 1129.59 FEET (Record), 1129.64 FEET (Measured); THENCE SOUTH 00 DEGREES 02 MINUTES 55 SECONDS EAST (Record), SOUTH 00 DEGREES 14 MINUTES 59 SECONDS WEST (Measured) A DISTANCE OF 1321.77 FEET (Record), 1321.33 FEET (Measured) TO THE EAST-WEST MID-SECTION LINE; THENCE SOUTH 89 DEGREES 32 MINUTES 28 SECONDS WEST (Record), SOUTH 89 DEGREES 52 MINUTES 06 SECONDS WEST (Measured) ALONG THE SAID EAST-WEST MID-SECTION LINE, A DISTANCE OF 1125.79 FEET; (Record), 1126.74 FEET (Measured); THENCE NORTH 00 DEGREES 12 MINUTES 46 SECONDS WEST (Record), NORTH 00 DEGREES 07 MINUTES 28 SECONDS EAST (Measured) A DISTANCE OF 1318.75 FEET (Record), 1319.07 FEET (Measured) TO THE TRUE POINT OF BEGINNING.

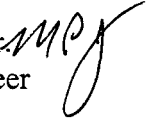
EXCEPT ALL OIL GAS AND OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A GASEOUS NATURE, GEOTHERMAL RESOURCES, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION AND EXCEPT ALL MATERIALS WHICH MAY BE ESSENTIAL TO PRODUCTION OF FISSIONABLE MATERIAL AS RESERVED IN ARIZONA REVISED STATUTES; AND

EXCEPT COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 19 MINUTES 06 SECONDS WEST (Record), SOUTH 00 DEGREES 21 MINUTES 25 SECONDS WEST (Measured) AND ALONG THE EAST LINE OF SAID SECTION 23, A DISTANCE OF 1323.96 FEET (Record), 1323.985 FEET (Measured); THENCE SOUTH 89 DEGREES 43 MINUTES 48 SECONDS WEST (Record), SOUTH 89 DEGREES 45 MINUTES 16 SECONDS WEST (Measured) AND ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 23, A DISTANCE OF 1329.18 FEET (Record), 1329.24 FEET (Measured); THENCE SOUTH 00 DEGREES 12 MINUTES 32 SECONDS WEST (Record), SOUTH 00 DEGREES 14 MINUTES 59 SECONDS WEST (Measured) AND ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 23, A DISTANCE OF 314.79 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUING SOUTH 00 DEGREES 12 MINUTES 32 SECONDS WEST (Record), SOUTH 00 DEGREES 14 MINUTES 59 SECONDS WEST (Measured) AND ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 23, A DISTANCE OF 1006.97 FEET (Record), 1006.54 FEET (Measured); THENCE SOUTH 89 DEGREES 49 MINUTES 58 SECONDS WEST (Record), SOUTH 89 DEGREES 52 MINUTES 06 SECONDS WEST (Measured) AND ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 23, A DISTANCE OF 447.31 FEET; THENCE NORTH 08 DEGREES 11 MINUTES 03 SECONDS EAST (Record), NORTH 08 DEGREES 13 MINUTES 11 SECONDS EAST (Measured), A DISTANCE OF 204.01 FEET; THENCE NORTH 27 DEGREES 54 MINUTES 52 SECONDS EAST (Record), NORTH 27 DEGREES 57 MINUTES 00 SECONDS EAST (Measured), A DISTANCE OF 392.55 FEET; THENCE NORTH 27 DEGREES 49 MINUTES 08 SECONDS EAST (Record), NORTH 27 DEGREES 51 MINUTES 16 SECONDS EAST (Measured) A DISTANCE OF 367.28 FEET; THENCE NORTH 26 DEGREES 22 MINUTES 30 SECONDS EAST (Record), NORTH 26 DEGREES 30 MINUTES 59 SECONDS EAST (Measured), A DISTANCE OF 150.27 FEET (Record), 149.93 FEET (Measured) TO THE TRUE POINT OF BEGINNING.

MEMORANDUM

DATE: August 11, 2004

TO: James E. Fisher
Executive Consultant II

FROM: Marlin Scott, Jr. 
Utilities Engineer

RE: New River Utility Company
Docket No. W-01737A-04-0502 (CC&N Extension)

Introduction

New River Utility Company ("Company") has applied to extend its Certificate of Convenience and Necessity (CC&N). The requested area will add approximately 53 acres (0.08 square-miles) to its existing 1.88 square-miles of certificated area. The Company is located in the area of 78th Avenue and Deer Valley Road within the City of Peoria, Maricopa County.

Capacity

Existing System

According to the submitted application, the Company's system has four wells with a total production capacity of 2,825 gallons per minute ("GPM"), three storage tanks totaling 3,000,000 gallons and a distribution system serving 2,575 service connections. Based on historical growth rates, it is anticipated that the existing service area could grow to approximately 4,300 connections at the end of five years. The Company has predicted an additional 167 connections for the proposed CC&N extension at the end of five years, resulting in a projected total customer base of approximately 4,467 at the end of five years.

Based on the existing well production and storage capacities, the system can serve approximately 3,100 service connections. Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional production and storage as required in the future.

Proposed Plant Facilities

The Company is proposing to extend its water system into the requested areas through the use of Main Extension Agreements ("MXAs"). The actual MXAs are under negotiation, resulting in no plant facility cost being available at this time. Once these MXAs are completed, the MXAs should be submitted to Staff for review and approval.

Maricopa County Environmental Services Department ("MCESD") Compliance

Compliance Status

MCESD regulates the water system under Public Water System I.D. # 07-051. Based on data submitted by the Company, MCESD has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Certificate of Approval to Construct

The Company had not received the MCESD Certificate of Approval to Construct ("ATC") for construction of facilities to each of the developer's requested areas. Staff recommends that the Company submit to the Director of the Utilities Division copies of each ATC when received by the Company.

Arsenic

The U.S. Environmental Protection Agency (EPA) has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10 µg/l. The date for compliance with the new MCL is January 23rd, 2006. The most recent lab analysis by the Company indicated that the arsenic level in its source supplies are Well #1 at 5 µg/l, Well #2 at 8 µg/l, Well #4 at 14 µg/l and Well #6 at 16 µg/l.

Based on these arsenic levels, the Company will be required to implement a plan to address this issue. This could mean installing treatment facilities, locating a better source of water or blending sources of water to achieve 10 µg/l or less. In a recent CC&N extension proceeding under Docket No. W-01737A-04-0274 and its Decision No. 67164, dated August 10, 2004, the Commission ordered the Company file within 90 days of the effective date of the Decision to the Director of the Utilities Division, a report which describes its arsenic treatment plan.

Arizona Department of Water Resources ("ADWR") Compliance

Compliance Status

The Company is located within the Phoenix Active Management Area ("AMA") and consequently, is subject to reporting and conservation requirements. The Phoenix AMA

reported that the Company is in total compliance with the ADWR reporting and conservation rules.

Certificate of Assured Water Supply

Staff recommends that the Company file with the Director of the Utilities Division copies of the developers' Certificate of Assured Water Supply for the requested area, where applicable or when required by statute.

Arizona Corporation Commission ("ACC") Compliance

A check with the Utilities Division Compliance Unit showed no outstanding compliance issues for this Company.

Summary

Conclusions

- A. Staff concludes that the Company's existing system has adequate source and storage capacity to serve the existing and proposed CC&N extension area.
- B. MCESD has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
- C. The Company indicated that the arsenic level in its source supplies are Well #1 at 5 µg/l, Well #2 at 8 µg/l, Well #4 at 14 µg/l and Well #6 at 16 µg/l. Based on these arsenic concentrations and in a recent CC&N extension proceeding under Docket No. W-01737A-04-0274 and its Decision No. 67164, dated August 10, 2004, the Commission ordered the Company file within 90 days of the effective date of the Decision to the Director of the Utilities Division, a report which describes its arsenic treatment plan.
- D. The Company is within the Phoenix AMA and is in compliance with its reporting and conservation requirements.
- E. A check with the Utilities Division Compliance Unit showed no outstanding compliance issues.

Recommendations

- 1. Once the MXAs are completed, Staff recommends that these MXAs be submitted to Staff for review and approval.

2. Staff recommends that the Company submit to the Director of the Utilities Division copies of each Certificate of Approval to Construct when received by the Company.
3. Staff recommends that the Company file with the Director of the Utilities Division copies of the developers' Certificate of Assured Water Supply for the requested area, where applicable or when required by statute.

MARICOPA COUNTY
RECEIVED

IN THE MATTER OF:

New River Utility Company, Inc.

Db: New River Utility Inc.

Attention: Robert Fletcher

7839 W. Deer Valley Rd.

Peoria, AZ 85382

2004 OCT 21 P 4:23

AZ CORP COMMISSION
DOCUMENT CONTROL

STIPULATION AND ORDER

CAUSE NO. 04-9147

PUBLIC WATER SYSTEM

ID NUMBER 07-051

THIS STIPULATION AND ORDER is entered between MARICOPA COUNTY, ARIZONA, acting by and through its DEPARTMENT OF ENVIRONMENTAL SERVICES (the "County") AND New River Utility Company, Inc., acting by and through New River Utility Inc. ("RESPONDENT").

In consideration of the mutual promises set forth herein, the parties hereto stipulate and agree as follows:

A. RESPONDENT acknowledges that no promises of any kind or nature were made to induce it to enter into this Stipulation and Order and it has done so voluntarily.

B. The undersigned representative of RESPONDENT certifies that he is fully authorized to enter into the terms and conditions of this Stipulation and Order and to execute and legally bind RESPONDENT to this document.

C. RESPONDENT admits the jurisdiction of the County and its Environmental Services Department.

D. RESPONDENT consents to the terms and entry of this Stipulation and Order and agrees not to contest the validity or terms of this Stipulation and Order in any subsequent proceeding.

E. RESPONDENT agrees that this Stipulation and Order is without prejudice to the County seeking additional penalties for any alleged violations of law, including the Maricopa County Environmental Health Code, whether or not addressed in this Stipulation and Order.

Dated this 6 day of October, 2004

RESPONDENT

By: 

Name: Robert Fletcher

Title: Owner of New River Utility Inc.

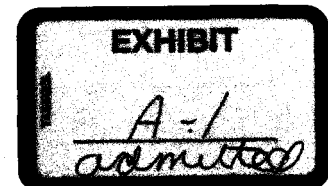
Dated this 28th day of SEPTEMBER, 2004

MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT

By: 

Name: John Power

Title: Manager, Water & Waste Management Division



MARICOPA COUNTY

IN THE MATTER OF:
New River Utility Company, Inc.
Dba: New River Utility Inc.
Attention: Robert Fletcher
7839 W. Deer Valley Rd.
Peoria, AZ 85382

ORDER
CAUSE NO. 04-9147
PUBLIC WATER SYSTEM
ID NUMBER 07-051

Pursuant to the STIPULATION, and good cause appearing therefore,
IT IS ORDERED:

I. JURISDICTION

1. The County is empowered by Arizona Revised Statutes, A.R.S. § 36-183.04, and the Maricopa County Environmental Health Code, Chapters I and V, to enter into this Stipulation and Order.
2. RESPONDENT is a Public Water System operating pursuant to permit #07-051, issued by the County to operate within Maricopa County.

II. FINDINGS OF FACT

1. Representatives of the Water & Waste Management Division of Maricopa County Environmental Services Department (MCESD) have presented evidence that RESPONDENT has not complied with certain requirements of the Maricopa County Environmental Health Code.
2. RESPONDENT was thereupon served with an inspection report dated April 12, 2004 and with a Letter of Violations dated April 20, 2004.
3. MCESD received a letter, dated April 15, 2004, from Jack Muir Enterprises, Inc., as a representative of RESPONDENT, indicating that well #3, DWR #55-616945, New River Utility Co. PWS #07-051 was disconnected as of April 15, 2004 from the water system.
4. MCESD received a letter, dated May 3, 2004, from Jack Muir Enterprises, Inc., as a representative of RESPONDENT, asking MCESD to consider such letter as their Notice of Violation for the following:
 - Unapproved Coliform Sample Site Plan.
 - Incorrect number of Coliform samples
 - Collection of Coliform samples on one day per month.

Such Notice was to cover the time period of January 1, 2004 through April 30, 2004

5. The Water & Waste Management Division of Maricopa County Environmental Services Department has verified that all violations have been corrected.

THE DIRECTOR ORDERS and the RESPONDENT agrees that it shall take the following actions immediately or as expressly set forth in the compliance schedule below:

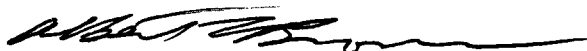
III. COMPLIANCE SCHEDULE

Within 15 (fifteen) days after receipt of this Stipulation and Order, RESPONDENT shall pay a penalty of \$15,000.00 to MCESD, pursuant to A.R.S. § 36-183.04. Monetary payment received by MCESD pursuant to this Stipulation and Order shall be deposited in the general fund of Maricopa County as provided for by A.R.S. § 36-183.04. Payment shall be made payable to Maricopa County Environmental Services Department and submitted to the attention of Luis Higuera, Legal Liaison Officer, 1001 N. Central Avenue, Suite #550, Phoenix, AZ 85004.

IT IS FURTHER ORDERED that:

RESPONDENT will operate at all times in conformance with the requirements of the Arizona Administrative Code and the Maricopa County Environmental Health Code.

Dated this 29th day of September, 2004.



Albert F. Brown, M.P.A., R.S., Director
Environmental Services Department

COPIES of the above and foregoing mailed/delivered

This 1 day of October, 2004, to:

New River Utility Company, Inc.
Dba: New River Utility Inc.
Attention: Robert Fletcher
7839 W. Deer Valley Rd.
Peoria, AZ 85382

Maricopa County Attorney's Office

John Power, Manager, Water & Waste Management Division

Luis Higuera, Legal Liaison Officer

Law Offices of Fennemore Craig
Attention: Mr. Patrick Black
3003 N. Central Avenue, Suite 2600
Phoenix, AZ 85012-2913